

**Applicant:** Gorsuch et al.  
**Application No.:** 10/776,424

**REMARKS/ARGUMENTS**

After the foregoing Amendment, Claims 3 and 37-45 are currently pending in this application. Claims 4-36 have been canceled without prejudice. Claim 3 has been amended to more clearly define the scope of the present invention. New claims 37-45 have been added to more distinctly claim subject matter which the Applicants regard as the invention. Applicants submit that no new matter has been introduced into the application by these amendments.

U.S. Patent No. 5,802,465 to Hamalainen et al. (hereinafter Hamalainen) describes a method for performing data transmission in a radio network using a virtual channel. Hamalainen teaches establishing a virtual channel when a user first requests a data packet service. Thereafter, a packet data transfer channel is established using the parameters of the established virtual channel. However, Hamalainen does not teach "transmitting information indicative of a data rate associated with the data traffic channel on the control channel, wherein the control channel is not adapted to carry voice or data traffic" as recited in claim 3 of the claimed invention. Instead, the virtual channel disclosed in Hamalainen contains information about the location of the mobile device and parameters stored in the memories of the mobile device and a data service unit.

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Further, Hamalainen fails to disclose "maintaining a state of at least one of the plurality of protocol layers above the physical layer during the packet data communication session after the data traffic channel has been released" as recited in claim 3 of the claimed invention. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 3 under 35 U.S.C. §102(e) as being anticipated by Hamalainen.

**Conclusion**

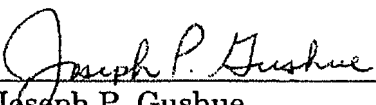
If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

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In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application, including claims 3 and 37-45, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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